

SCOTT A. EDELMAN, SBN 116927
SEdelman@gibsondunn.com
MICHAEL W. SEITZ, SBN 271136
MSeitz@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
2029 Century Park East
Los Angeles, CA 90067-3026
Telephone: 310.552.8500
Facsimile: 310.551.8741

THEANE EVANGELIS KAPUR, SBN 243570
TKapur@gibsondunn.com
BLAINE H. EVANSON, SBN 254338
BEvanson@gibsondunn.com
GIBSON, DUNN & CRUTCHER LLP
333 South Grand Avenue
Los Angeles, CA 90071-3197
Telephone: 213.229.7000
Facsimile: 213.229.7520

Attorneys for Plaintiff,
CBS BROADCASTING INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

CBS Broadcasting Inc.,
Plaintiff,
v.
American Broadcasting Companies Inc.,
et al.,
Defendants.

CASE NO. 2:12-CV-04073 GAF (JEMx)
**SUPPLEMENTAL DECLARATION
OF JEFF ROVIN BASED ON
MATERIAL POSTED ONLINE BY
DEFENDANT ABC THROUGH
WEDNESDAY, JUNE 13, 2012**

On June 12, 2012, ABC began streaming online small portions of footage from the set of *Glass House*. CBS respectfully submits the attached supplemental declaration of Jeff Rovin, which is based on Mr. Rovin's review of that footage through and including Wednesday, June 13, 2012, and a comparison to episodes of *Big Brother*.

ANALYSIS OF *GLASS HOUSE* VIDEOS

Jeff Rovin

I. INTRODUCTION

A look at the first videos being streamed and replayed on the *Glass House* website and links (at <http://glass-house.abc.go.com/shows/the-glass-house/view-and-vote/>) confirms the concerns voiced by CBS from the start: the ABC program is a copy of *Big Brother*.

From the identical camera angles to the topics of discussion to the 'hang out' areas in the house, from the slow 'zooms' into the face of contestants who are off on a monologue (an effort to create visual interest in what would otherwise be a long, static shot) to the cautious, incremental panning in master shots (so as not to lose contestants on the fringe of the image), ABC and its creative team have introduced virtually nothing new in the way of staging, camera work, setting, narrative, wardrobe, or anything else that comprise the expression of *Big Brother*. Given all the possible expansions ABC *could* have introduced to the reality television genre, the producers clearly chose to replicate what CBS has spent more than a decade refining and perfecting.

II. INDIVIDUAL CITES

Given how little *Glass House* has streamed on the web, it is remarkable how much striking similarity *already exists*.

From the costuming to the hair color to the set color to the lighting, the look and feel of this clip from *Big Brother* ten (at 01:15 --

<http://www.youtube.com/watch?v=R1XxQKo4qsI>) is clearly indistinguishable from *Glass House*.



The Glass House: [Players Talk Tattoos](#)



In *Big Brother* ten, episode five, there is a bedroom hangout which includes a topless male and furnishings which -- despite the vaunted differences in the set ("The interior design of the homes also makes for a very different visual palette," Spiegel

Declaration, page fourteen) are, in fact -- from drapery to chair color to pillow color -- indistinguishable at a glance (at 00:42,

<http://www.youtube.com/watch?v=VMx7XQX4Ffc>)



The Glass House: Robin and Holly Talk MENSEA



Big Brother eight not only features a conversational pool/spa segment, the camera angle utilized in *Glass House* is identical (at 00:11 --

http://www.youtube.com/watch?v=38J-ID_2nEs)



The Glass House: [Players Tease Jacob](#)



Further to the point that the *Glass House* designers and crew have replicated the Big Brother camera angles, here is *Big Brother* ten, episode eight (at 00:22 -- <http://www.youtube.com/watch?v=qEcR5BRwGtE&feature=related>) and an identical angle on the bed from *Glass House*.



The Glass House: [Jacob is Polite](#)



In my original report, I noted the similarity between the kitchen design on *Big Brother* and the design on *Glass House*. Now that a segment has been posted on the web, one can also see that the costuming is also identical to *Big Brother* twelve (at 00:13 -- <http://www.youtube.com/watch?v=piqgsAzpfok>)



The Glass House: [Players Go Bowling - Part 1](#)



Once again, with so little of *Glass House* posted on the web, it is remarkable that ABC has made available a clip that shares everything with this scene from *Big Brother* eleven: contestants talking about tattoos (at 00:18 -- <http://www.youtube.com/watch?v=2HeQadeOznM>)



The Glass House: [Players Talk Tattoos](#)



Considering the striking similarities on display in just a handful of brief clips, it is clear that not just the expression of *Big Brother* has been appropriated. *Glass House* is also drawing liberally from the technical acumen acquired in the sets, costumes, camera angles, and lighting choices codified by *Big Brother*.

III. CONCLUSION

The roadmap laid out by ABC suggests that *Glass House* will continue to duplicate the entirety of the expression of *Big Brother*.

Glass House has already copied the tone and gravitas of the 'promo' for *Big Brother* thirteen (at 00:18 -- <http://www.youtube.com/watch?v=KFzP9WZSuNU>)

“It’s a house like no other. Where **fifty-two cameras** follow your **every move**. And ninety-five microphones capture your **every word**. This is the **Big Brother house...**”

The Glass House promo:

The Glass House – Promo

“In the **Glass House** you will see **every move**. You will know **every secret...**”



Big Brother six had “Summer of **Secrets**”

The interactive element of *Big Brother* is also being recycled and promoted as in promo from *Big Brother* thirteen in which Julie Chen invites viewers to “join the conversation on Twitter”: (00:15 -- <http://www.youtube.com/watch?v=0AnXRtr4n0>):



Glass House also encourages fans to participate on Twitter:



In my previous declaration and rebuttal report I discussed other aspects of striking similarity. Now that clips of *Glass House* are available, the levels of appropriation are

clearer. To cite just one example, ABC has done nothing to distinguish the 'Meet the Cast Member' element of *Glass House* from the same element integrated in the expression of *Big Brother*:

Big Brother ten: meet cast member Michelle



The Glass House: meet cast member Holly



The aggregate of elements -- not a few but virtually *all* of them -- is self-evidently not a matter of scènes à faire, of independent creation, or of ABC simply plucking ideas from the prior art. *Glass House* is, in short, an unauthorized 'remake' of *Big Brother*.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed at New York, New York, on June 14, 2012



Jeff Rovin